

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYRAL KING, *et al.*,

Defendants.

Case No. 2:14-cr-264-APG-VCF

**ORDER AND
REPORT & RECOMMENDATION**

MOTION TO COMPEL (#57)
MOTION FOR JOINDER (#59)
MOTION TO SEVER (#60)

This matter involves the United States' prosecution of Tyral King and Sha-ron Haines for sex trafficking. *See* (Super. Indict. #44¹). Before the court is King's Motion to Compel (#57), Haines' Joinder to the Motion to Compel (#59), and Haines' Motion to Sever (#60). For the reasons stated below, King's Motion to Compel is set for a hearing on Thursday July 9, 2015 at 10:00 a.m., Haines' Motion for Joinder is granted, and Haines' Motion to Sever should be denied.

I. BACKGROUND

Sometime in April or May of 2014, J.C. allegedly met Tyral King and Sha-ron Haines through A.S., a mutual friend, in Las Vegas, Nevada. A.S. told J.C. that A.S. is a prostitute and King acts as her pimp. A.S. also asked whether J.C. wanted to travel with A.S. and King to California to engage in prostitution. J.C., who is a minor, agreed.

King allegedly drove A.S., K.S., and Haines to Pomona and Los Angeles, California. The four spent the first night in California at King's grandmother's house. The next day, King allegedly rented hotel rooms and placed advertisements and pictures of A.S. and/or J.C. on backpage.com.

¹ Parenthetical citations refer to the court's docket.

1 King and Haines then drove A.S. and J.C. around Los Angeles to solicit sex for money. J.C.
2 allegedly engaged in various sex acts with three clients and gave the proceeds to King, who allegedly
3 exchanged texts messages with Haines regarding King and Haines' intentions to sell J.C. for sex.

4 A.S. was arrested the next day. King and Haines allegedly asked J.C. to engage in additional sex
5 acts to raise money for A.S.'s bail. J.C. allegedly complied and raised money but A.S. was not bailed out
6 of jail. Instead, J.C., King, and Haines drove back to Las Vegas, Nevada. Haines demanded that J.C. give
7 her the money from her most recent customers. When J.C. refused, Haines allegedly searched J.C. and
8 discovered the money.

9 On August 6, 2014, King and Haines were indicted. Now, King and Haines move for an order
10 compelling the government to produce J.C.'s contact information in order to conduct an interview and
11 Haines moves to sever her trail from Kings. Because the court will hear oral argument on King's Motion
12 to Compel on Thursday July 9, 2015 at 10:00 a.m., the court only addresses Haines' Motion to Sever here.

13 14 II. LEGAL STANDARD

15 Federal Rule of Criminal Procedure 8(a) permits for joinder of multiple offenses against a single
16 defendant if the offenses are (1) of the same or similar character, (2) based on the same act or transaction,
17 or (3) connected with or constituting parts of a common scheme or plan. FED. R. CRIM. P. 8(a). Rule 8 has
18 been broadly construed in favor of joinder because joint trials conserve government funds, minimize
19 inconvenience to witnesses and public authorities, and avoid delays in bringing a defendant to trial. *See*
20 *United States v. Lane*, 474 U.S. 438, 449 (1986); *United States v. Jawara*, 474 F.3d 565, 572 (9th Cir.2006)
21 (citing *United States v. Friedman*, 445 F.2d 1076, 1082 (9th Cir.1971)). Misjoinder of charges under Rule
22 8(a) is a question of law reviewed *de novo*. *Id.* (citing *United States v. Terry*, 911 F.2d 272, 276 (9th
23 Cir.1990)). Importantly, "[a]t least one of Rule 8(a)'s three conditions must be satisfied for proper joinder.
24
25

1 *Jawara*, 474 F.3d at 573 (citing *United States v. Randazzo*, 80 F.3d 623, 627 (1st Cir.1996); *United States*
2 *v. Cardwell*, 433 F.3d 378, 385 (4th Cir.2005)).

3 In turn, Federal Rule of Criminal Procedure 14 governs the severance of charges. *Yasquez–*
4 *Yelasco*, 15 F.3d at 845. Even where joinder is proper under Rule 8(a), the court may order separate trials
5 of counts or provide other relief that justice requires if joinder “appears to prejudice a defendant or the
6 government.” FED. R. CRIM. P. 14(a). The court’s power to order severance “rests within the broad
7 discretion of the District Court as an aspect of its inherent right and duty to manage its own calendar.”
8 *United States v. Gay*, 567 F.2d 916, 919 (9th Cir.1978). Rule 14 does not require severance even if
9 prejudice is shown; rather, it leaves the tailoring of the relief to be granted, if any, to the district court’s
10 sound discretion. *Zafiro v. United States*, 506 U.S. 534, 538–39 (1993). The court’s denial of a motion to
11 sever is reviewed for abuse of discretion. *See Fernandez*, 388 F.3d at 1241.

12 The Ninth Circuit has held that Rule 14 sets a high standard for showing prejudice, and the party
13 seeking severance bears the burden of showing clear, manifest, or undue prejudice of such a magnitude
14 that, without severance, the party will be denied a fair trial. *See United States v. Throckmorton*, 87 F.3d
15 1069, 1072 (9th Cir.1996); *Vasquez–Velasco*, 15 F.3d at 845. Prejudice arises where: (a) the jury could
16 confuse and cumulate the evidence of one charge to another; (b) the defendant could be prejudicially
17 confounded in presenting his defenses (*i.e.*, where a defendant wishes to testify in his own defense on one
18 count but not another); and (c) the jury could erroneously conclude the defendant is guilty on one charge
19 and therefore convict him on another based on his criminal disposition. *United States v. Johnson*, 820 F.2d
20 1065, 1070 (9th Cir.1987) (citing *Drew v. United States*, 331 F.2d 85, 88 (D.C.Cir.1964). Additionally, if
21 there is a risk of prejudice, the Ninth Circuit has found it can be minimized with appropriate jury
22 instructions, and “juries are presumed to follow their instructions.” *See, e.g., Zafiro*, 506 U.S. at 540 (citing
23
24
25

1 *Richardson v. Marsh*, 480 U.S. 200, 209 (1987)); *see also Vasquez–Velasco*, 15 F.3d at 847 (collecting
2 cases regarding jury instructions concerning compartmentalizing evidence and spillover prejudice).

3 **III. DISCUSSION**

4 Haines argues that her trial should be severed from Kings’ trial for two reasons: (1) the jury will
5 be unable to compartmentalize the evidence against King from the evidence against Haines and (2) King
6 and Haines will be pursuing mutually exclusive defenses. The court is unpersuaded because Haines’
7 arguments are speculative and conclusory.

8 She states that the jury will be unable to compartmentalize the evidence against King from the
9 evidence against Haines because “[m]uch of the evidence in this case is pointed towards King,” “[t]here
10 is a great deal of evidence against King and very little evidence to support the government’s theory against
11 Haines.” (Doc. #60 at 3:11–12, 22–23). The government rebuts this argument by showing that much of
12 the evidence implicates both Haines and King. For instance, both Haines and King drove A.S. and J.C. to
13 California, both discussed their intentions to sell J.C. for sex via text message, and Haines searched J.C.
14 to obtain the proceeds of J.C.’s prostitution.
15

16 The court is also unpersuaded by Haines’ second argument. She asserts that that severance is
17 appropriate because her defense is mutually exclusive of King’s defense because Haines “will be pointing
18 the finger at King.” (Doc. #60 at 5:20–21). Haines does not specify how she “will pointing the finger at
19 King.” Notably, King did not filed a joinder to Haines’ motion or argue that Haines’ defense may prejudice
20 his right to a fair trial.

21 Severance under Rule 14 requires “a serious risk” of prejudice. *Zafiro*, 506 U.S. at 539. A potential
22 risk does not warrant severance. *See id.* If, as here, a potential risk of prejudice appears, the proper remedy
23 is to provide the jury with limiting instructions. *United States v. Buckley*, 525 F.3d 629, 633–34 (8th Cir.
24
25

1 2008); *United States v. Trainor*, 477 F.3d 24, 34–5 (1st Cir. 2007); *United States v. Nguyen*, 88 F.3d 812,
2 817 (9th Cir. 1996). Based on the record before the court, Haines’ Motion to Sever should be denied.

3 ACCORDINGLY, and for good cause shown,

4 IT IS ORDERED that a hearing is set on King’s Motion to Compel (#57) for Thursday July 9,
5 2015 at 10:00 a.m. in courtroom 3D.

6 IT IS FURTHER ORDERED that Haines’ Motion for Joinder to the Motion to Compel (#59) is
7 GRANTED.

8 IT IS RECOMMENDED that Haines’ Motion to Sever (#60) be DENIED.

9 DATED this 17th day of June, 2015.
10
11

12 

13 _____
14 CAM FERENBACH
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25